

## **EXHIBIT W- 10**

PLAINTIFF'S REQUEST TO CLERK COURT OR BY MOTION OF THE COURT,  
TO ENTER DEFAULT(s) and DEFAULT JUDGMENT(s), AGAINST ALL DEFENDANTS

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

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OWEN W. BARNABY,  
Plaintiff

)  
)

Vs.

) Hon. Robert J. Jonker  
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL  
Defendants

) Case No. 1:22 -CV- 1146

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**REQUEST TO CLERK COURT OR BY MOTION OF THE COURT,  
TO ENTER DEFAULT JUDGMENT(s),**

**AGAINST ALL DEFENDANTS FOR FAILURE TO FILE ANSWER TO COMPLAINT (10, 36) OR A VALID MOTION OR A MOTION UNDER RULE 12, AND FAILURE TO APPEAL DISTRICT COURT'S ORDER AND JUDGMENT (ECF 35, 56, 67, 68).**

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Come now, Plaintiff, In Pro Se, that, (**notwithstanding**) his prior, 'Motions and Applications, for Defaults and Default Judgments (ECF Nos. 28, 31, 32, 75, 77, 81, 88, 95)". Plaintiff, furthermore moves the Court by Request from Clerk of Court or by Motion on the Court to enter Default and Default Judgment against all the following Defendants: 1), Defendant - Lori D. Jarvis Registrar; 2), Defendant - Lora L. Freehling Registrar; 3), Defendant - Kathleen Culberson, Notary Public; 4), Defendant – Bret Witskowski, Treasurer; 5), Defendant – Shelly Weich, Treasurer; 6), Defendant – Board of Commissioner; 7), Defendant – Attorney Mckinley R. Elliott; 8), Defendant – Attorney Donna B. Howard; 9), Defendant – Attorney James MCGovern; 10), Defendant – Berrien County Government; 11), Defendant – Bret Witskowski, in his Individual capacity; 13), Defendant – Attorney Jefferey R. Holmstrom and 14), Defendant – Holmdtrom Law Office; 15), Defendant - Niles Charter Township Board of Trustees; and, 16), Defendant - for Defendant - Niles Charter Township; 17), Defendant – City of Benton; 18), Defendant – Kendell S. Asbenson, Assistant Attorney General of Michigan; 19), Defendant – Hon. Rick Snyder Former Governor of Michigan; 20), Defendant – Hon. Jennifer Granholm, Former Governor of Michigan, for failure to file an Answer to Plaintiff's Complaint (ECF Nos. 10, 36), or a valid Motion, or a Motion Under Rule 12, and failure to appeal the District Court's Order and Judgment (ECF Nos. 35, 56, 67. 68).

Respectfully Submitted,

Dated: January 4, 2024,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.

**CONCISE STATEMENT OF ISSUES and AUTHORITY**

Plaintiff contends that, **Default and Default Judgment** must be entered against all the Defendants above, because they were properly served by Plaintiff with Summonses and Second and Third Amended Complaint (ECF No. 10, 36, 37), and that they failed to file Answers to, Plaintiff's Second and or Third Amended Complaint (ECF Nos. 10, 36, 37), or a valid Motion, or a Motion Under Rule 12, and failure to appeal the District Court's Orders and Final Judgment (ECF Nos, 35, 56 67. 68). Plaintiff's Applications pursuant to Rule 55: (a), to enter Default (ECF Nos. 32, 75, 77, 95) are Proper and pursuant to Rule 55: (b) (1), (2) to enter Default Judgment are also proper (ECF Nos. 28, 31, 77, 81, 88). As it has been [over one year and weeks] after they were properly served. As one of the Defendant's oppositions brief accurately, states, "The purpose of a default judgment is to prevent a defendant from employing dilatory tactics—not to relieve the burden of plaintiffs to litigate the merits of their claims. See Baez v. S.S. Kresge Co., 518 F.2d 349, 350 (5th Cir. 1975) ("[T]he basic purpose of the default judgment is to protect parties from undue delay-harassment."). "Judgment by default is a drastic step which should be resorted to only in the most extreme cases." United Coin Meter Co. v. Seaboard C. Railroad, 705 F.2d 839, 845 (6th Cir. 1983)." Clearly, Plaintiff's Motions and applications for Default Judgments are warranted to stop Defendants employed dilatory tactics and undue delay-harassment of Plaintiff's Second Amended Complaint (ECF No. 10), for the last [one year and three weeks] and thirteen plus years of sufferings.

As such, Plaintiff's Applications pursuant to Rule 55: (a), to enter Default (ECF Nos. 32, 75, 77, 95) are Proper and pursuant to Rule 55: (b) (1), (2) to enter Default Judgment are also proper (ECF Nos. 28, 31, 77, 81, 88), Must be Granted. See some Applicable controlling laws:

A. Fed. R. Civ. P. 1

B. (The doctrine of the law of the case) and or (The law of the case doctrine)

- C. Res Judicata and or Collateral Estoppel
- D. Federal Rule of Appellate Procedure 25(c). 6 Cir. R. 25(f)(1)(B)
- E. Fed. R. Civ. P. 12 (a)(2) or (3)
- F. Fed. R. Civ. P. 12 (b)(1)(A) and Fed. R. Civ. P. 55 (a), (b)

“**Within 21 days after service of this summons** on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney...”

“If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.”

Moreover, this United States District Court for the Western District of Michigan, states that,

“YOU ARE HEREBY SUMMONED and required to serve upon plaintiff, an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure within \_\_\_, days after service of this summons on you (not counting the day you received it). If you fail to respond, **judgment by default will be entered against you** for the relief demanded in the complaint. You must also file your answer or motion with the Court.”

Defendants were served on January 06, 2023, with Plaintiff’s, ‘Third Amended Complaint (ECF Nos. 36, 37)’. The Granted Motion now contains therein, preservation of Plaintiff’s, Default, and Default Judgment (ECF Nos. 28, 31, 32), inclusive of the State of Michigan Defendants, (ECF Nos. 75, 77, 81, 88, 95), entitled below.

EXPEDITED CONSIDERATION REQUESTED  
PLAINTIFF’S EMERGENCY MOTION TO, ‘AMEND OR LEAVE TO AMEND,  
SECOND AMENDED COMPLAINT’, AND ‘CLARIFICATIONS, ON REPORT AND  
RECOMMENDATION AND ON MOTION TO DISMISS, SECOND AMENDED COMPLAINT’,  
AND **‘PRESERVATION OF PLAINTIFF’S MOTIONS FOR DEFAULT JUDGMENT AGAINST  
DEFENDANTS AND APPLICATION FOR DEFAULT JUDGMENT’**

### **Relief Requesting**

Giving, Plaintiff's Request for the Clerk of Court to enter Default (ECF Nos. 32, 75, 95) and the Clerk or Court to or the Court to enter Default Judgment (ECF Nos. 28, 31, 77, 81, 88), against all the above named Defendants. Plaintiff now, Request the Clerk of Court or by Motion of the Court to enter Default(s) and Default Judgment(s) against all Named Defendants in his Brief, for their failure to file an Answer to Plaintiff's Complaint (ECF Nos. 10, 36), or Under Rule 12, a valid Motion or a Motion, and failure to appeal the District Court's Order and Judgment (ECF Nos. 35, 56, 67. 68), with the full damages set forth in his affidavit the sum certain total of **\$22, 529,329.60.**

Respectfully Submitted,

Dated: January 4, 2024,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.